

CRM-M-39849-2024

205 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-39849-2024
Reserved on: 16.01.2025
Pronounced on: 27.01.2025

Harbans Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr.Amandeep Chhabra, Advocate
for the petitioners.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
77	08.07.2024	Arniwala, District Fazilka	115(2), 351(3), 324(4), 229/3(5) BNS

1. The petitioners apprehending arrest in the FIR captioned above have come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 18 of the bail petition, the accused persons declare that they have no criminal antecedents.

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“4. That, at the outset, FIR in question was registered against three accused persons namely 1. Harbans Singh son of Virsa Singh, 2. Gurjant of No Singh son of Gurmeet Singh, 3. Jassu Singh son of Harbans Singh, all residents of village Islamwala, Tehsil and District Fazilka, on statement of Gurmeet Singh son of Joginder Singh, resident of village Islamwala, Tehsil and District Fazilka, on the specific allegations that he is resident of village Islamwala, Tehsil and District Fazilka and is being stated on oath and he is providing first aid services and is secretary of MPAPP registration No.295 District Fazilka and is doing practice of doctor. The occurrence is as detailed here that on 07.07.2024 at

about 9.00 P.M night, he at his village Islamwala went to give medicine to his patient. After going, his wife Baljinder Kaur was alone in the house, then at that time, accused Harbans Singh son of Virsa Singh, Gurjant Singh son of Gurmit Singh and Jassu Singh son of Harbans Singh, all residents of village Islam Wala, District Fazilka, armed with sharp edged weapons Kappa came and attacked on his scooty, which was parked outside his house and damaged his scooty, when my wife saw then on stopping to them, the accused persons starting abusing my wife in filthy language and pushing here and there and started misbehaving with her. Further, accused persons forcibly snatched my gold bangle and started advancing threats to my wife, CCTV Videos of which are with me. When, after giving medicine to patient, I came to my house and saw the spot and called the respectable persons and Sarpanch and make a phone to SHO PS Arniwala Sheikh Subhan and Hon'ble SHO sent ASI Subhash Chander on the spot, but the said ASI did not take any action and came back after making spot inspection. These accused earlier also on 01.01.2024 at about 7.30 P.M, had came to my house and abused my wife and gave beatings to me and advanced threats to kill me and my wife. The accused have removed my turban and threw the same in waste water drain. CCTV video of this occurrence is with me, application of which has been given to PS Arniwala Sheikh Subhan, action upon which has not been taken by the police, then later after 4 days, I have filed application to SSP, Fazilka, but for action said application is not reached at Ariwala Sheikh Subhan. So, it is requested to take action against accused persons, so that accused could not cause any harm to me and my family again. On 08.07.2024 ASI Ravi Kant was present at police station, then Gurmeet Singh son of Joginder Singh, Resident of Islam Wala along with Nambardar Natha Singh came and met, who get recorded his statement that being medical practitioner, he is doing his duty at village Islam Wala and he was out of house for giving medicine to his patient, then on 07.07.2024 accused Harbans Singh son of Virsa Singh and Gurjant Singh son of Gurmeet Singh and Jassu Singh son of Harbans Singh armed with sharp edge weapon attacked and damaged his scooty which was lying parked outside to my house and abused to his wife Balinder Kaur and snatched gold bangle from her right arm. On 01.01.2024 the above referred accused have also done so and have advanced threats to kill them, so, from

the statement, ingredients of commission of offence under section 115(2), 351(3), 324(4), 299, 3(3) BNS-23 has been found to be made out. Accordingly, FIR in question was registered.”

4. The petitioners’ counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioners and their family.

5. The State’s counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“7. That in compliance to the order dated 14.08.2024 passed by this Hon'ble Court, it is submitted as under :-

A- THE ROLE OF PETITIONERS: - It is submitted that the petitioner have went to the shop / house of Gurmeet Singh/complainant of the instant FIR No. 77 Dated 08.07.2024 and damaged the scooty of the Gurmeet Singh, hurled abuses to wife of complainant, took off bangle of his wife, threatened to her with elimination and put off his turban and threw the same in the waste water drain.

B- THE EVIDENCE AGAINST THE PETITIONERS:- It is submitted that firstly, the complainant- Gurmeet Singh has submitted his affidavit in this regard and even suffered statements before the investigating officer. Further, Baljinder Kaur wife of complainant has also appeared and suffered her statement before investigating officer.- ASI Ravi Kant.”

7. Undoubtedly, the petitioners’ conduct is immoral and unbelieving of a person of civilized society, but this Court wants to give one opportunity to the petitioners for the reason that they are the first time offender. It is clarified that if the petitioners do not mend their ways and do not prove their conduct and if they repeat the offence then the Court while granting the bail would consider that despite caution by this Court, the petitioners did not pay any heed.

8. The Police did not arrest the petitioners; if they intended to arrest the petitioners, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused persons.

9. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but

this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

10. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.

11. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioners make a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

12. Given above, provided the petitioners are not required in any other case, the petitioners shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused persons fail to appear, such surety can produce the accused.

13. While furnishing a personal bond, the petitioners shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

14. This order is subject to the petitioners' complying with the following terms. The petitioners shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioners shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. The petitioners are directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioners shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking

cancellation of the bail. During the investigation, the petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

16. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioners notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

17. It is clarified that if the petitioners violate any bail condition, the State and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the petitioners move for deletion or dilution of any bail conditions, the trial court is empowered to do so.

18. **This bail is conditional, and the foundational condition is that if the petitioners indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

19. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

20. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioners can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

21. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

27.01.2025
M.Sikka

Whether speaking/reasoned: Yes
Whether reportable: No.